

§ 1.1402(e)(4)-1

26 CFR Ch. I (4-1-03 Edition)

this paragraph, a certificate on Form 2031 filed by an individual in accordance with the provisions of §§1.1402(e)(1)-1 and 1.1402(e)(2)-1, inclusive, after the due date of the return (including any extension thereof) for his second taxable year ending after 1956 shall be effective for the taxable year immediately preceding the earliest taxable year for which, at the time the certificate is filed, the period for filing a return (including any extension thereof) has not expired, and for all succeeding taxable years.

Example. M, a duly ordained minister of a church, makes his income tax returns on the basis of a calendar year. M has not been granted an extension of time for filing any return. On April 15, 1963, the due date of his income tax return for 1962, M files a waiver certificate pursuant to §1.1402(e)(1)-1 and within the time limitation set forth in §1.1402(e)(2)-1. On April 15, 1963, the year 1962 is the earliest taxable year for which the period for filing a return has not expired. Consequently, M's certificate is effective for 1961 and all succeeding taxable years. M must report and pay any self-employment tax due for 1961 and 1962. (The tax, if any, for 1962 is due on April 15, 1963.) Inasmuch as the due date of the tax for 1961 is April 16, 1962, M must pay interest on any tax due for 1961. For provisions relating to such interest, see §301.6601-1 of Part 301 of this chapter (Regulations on Procedure and Administration).

(2) *Filed after October 13, 1964, and on or before the due date of return for second taxable year ending after 1962.* A certificate on Form 2031 filed by an individual in accordance with the provisions of §§1.1402(e)(1)-1 and 1.1402(e)(2)-1, inclusive, after October 13, 1964, and on or before the due date of the return (including any extension thereof) for his second taxable year ending after 1962 (April 15, 1965, in the case of a calendar year taxpayer who has not been granted an extension of time for filing his income tax return for 1964) shall be effective for his first taxable year ending after 1961 and all succeeding taxable years.

Example. M, a duly ordained minister of a church, makes his income tax returns on the basis of a calendar year. M has not been granted an extension of time for filing any return. On April 15, 1965, the due date of his income tax return for 1964, M files a waiver certificate pursuant to §1.1402(e)(1)-1 and within the time limitation set forth in §1.1402(e)(2)-1. M's certificate is effective for

1962 and all succeeding taxable years, and he must report and pay any self-employment tax due for 1962, 1963, and 1964. (The tax, if any, for 1964 is due on April 15, 1965.) Inasmuch as the due dates of the tax for 1962 and 1963 are April 15, 1963, and April 15, 1964, respectively, M must pay interest on any tax due for 1962 or 1963. For provisions relating to such interest, see §301.6601-1 of Part 301 of this chapter (Regulations on Procedure and Administration).

(3) *Filed after July 30, 1965, and on or before the due date of return for second taxable year ending after 1963.* A certificate on Form 2031 filed by an individual in accordance with the provisions of §§1.1402(e)(1)-1 and 1.1402(e)(2)-1, inclusive, after July 30, 1965, and on or before the due date of the return (including any extension thereof) for his second taxable year ending after 1963 (Apr. 15, 1966, in the case of a calendar year taxpayer who has not been granted an extension of time for filing his income tax return for 1965) shall be effective for his first taxable year ending after 1962 and all succeeding taxable years.

Example. M, a duly ordained minister of a church, makes his income tax returns on the basis of a calendar year. M has not been granted an extension of time for filing any return. On April 15, 1966, the due date of his income tax return for 1965, M files a waiver certificate pursuant to §1.1402(e)(1)-1 and within the time limitation set forth in §1.1402(e)(2)-1. M's certificate is effective for 1963 and all succeeding taxable years, and he must report and pay any self-employment tax due for 1963, 1964, and 1965. (The tax, if any, for 1965 is due on April 15, 1966.) Inasmuch as the due dates of the tax for 1963 and 1964 are April 15, 1964, and April 15, 1965, respectively, M must pay interest on any tax due for 1963 or 1964. For provisions relating to such interest, see §301.6601-1 of Part 301 of this chapter (Regulations on Procedure and Administration).

(d) *Election irrevocable.* An election which has become effective pursuant to this section is irrevocable. A certificate may not be withdrawn after June 30, 1961.

[T.D. 6691, 28 FR 12796, Dec. 3, 1963, as amended by T.D. 6978, 33 FR 15939, Oct. 30, 1968]

§ 1.1402(e)(4)-1 Treatment of certain remuneration paid in 1955 and 1956 as wages.

If in 1955 or 1956 an individual was paid remuneration for service described

in section 3121(b)(8)(A) which was erroneously treated by the organization employing him (under a certificate filed by such organization pursuant to section 3121(k) or the corresponding section of prior law) as employment, within the meaning of the Federal Insurance Contributions Act (Chapter 21 of the Internal Revenue Code), and if on or before August 30, 1957, the taxes imposed by sections 3101 and 3111 were paid (in good faith and upon the assumption that the insurance system established by title II of the Social Security Act had been extended to such service) with respect to any part of the remuneration paid to such individual for such service, then the remuneration with respect to which such taxes were paid, and with respect to which no credit or refund of such taxes (other than a credit or refund which would be allowable if such service had constituted employment) has been obtained either by the employer or the employee on or before August 30, 1957, shall be deemed, for purposes of the Self-Employment Contributions Act of 1954 and the Federal Insurance Contributions Act, to constitute remuneration paid for employment and not net earnings from self-employment. For regulations relating to section 3121(b)(8)(A) and (k), see §§ 31.3121(b)(8)-1 and 31.3121(k)-1 of subpart B of part 31 of this chapter (Employment Tax Regulations).

§ 1.1402(e)(5)-1 Optional provision for certain certificates filed before April 15, 1962.

(a) *Certificates.* (1) The optional provision contained in section 1402(e)(5)(A) may be applied to a certificate on Form 2031 filed within the period September 14, 1960, to April 16, 1962, inclusive, in the case of a duly ordained, commissioned, or licensed minister of a church, a member of a religious order (other than a member of a religious order who has taken a vow of poverty as a member of such order), or a Christian Science practitioner, who has derived net earnings, in any taxable year ending after 1954 and before 1960, from the performance of service in the exercise of his ministry, in the exercise of duties required by his religious order, or in the exercise of his profession as a

Christian Science practitioner, respectively, and who has reported such earnings as self-employment income on a return filed before September 14, 1960, and on or before the date prescribed for filing such return (including any extension thereof). The certificate may be filed by such minister, member of a religious order, or Christian Science practitioner or by a fiduciary acting for such individual or his estate, or by his survivor within the meaning of section 205(c)(1)(C) of the Social Security Act, and it must be filed after September 13, 1960, and on or before April 16, 1962. Subject to the conditions stated in subparagraph (2) of this paragraph, such certificate may be effective at the election of the person filing it, for the first taxable year ending after 1954 and before 1960 for which a return, as described in the first sentence of this subparagraph, was filed, and for all succeeding taxable years, rather than for the period prescribed in § 1.1402(e)(3)-1. The election for retroactive application of the certificate may be made by indicating on the certificate the first taxable year for which it is to be effective and that such year is the first taxable year ending after 1954 and before 1960 for which the minister, member of a religious order, or Christian Science practitioner filed an income tax return on which he reported net earnings for such year from the exercise of his ministry, the exercise of duties required by his religious order, or the exercise of his profession as a Christian Science practitioner, as the case may be, and by fulfilling the conditions prescribed in subparagraph (2) of this paragraph.

(2) A certificate to which subparagraph (1) of this paragraph relates may be effective for a taxable year prior to the taxable year immediately preceding the earliest taxable year for which, at the time the certificate is filed, the period for filing a return (including any extension thereof) has not expired, only if the following conditions are met:

(i) The tax under section 1401 is paid on or before April 16, 1962, in respect of all self-employment income (whether or not derived from the performance of service by the individual in the exercise of his ministry, in the exercise of